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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/332,348	06/14/1999	BEHFAR RAZAVI	5181-29900	2822

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EXAMINER

PHAM, BRENDA H

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/332,348

Applicant(s)

RAZAVI ET AL.

Examiner

Brenda Pham

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 14 June 1999.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-20 have been examined.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12, 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Spaur et al** (US 5,732,074), hereinafter refer to as **Spaur**, in view of **Fawcett** (US 5,845,077).

-Regarding claims 1, 3, 8, 13 and 14, **Spaur** discloses a system for providing software upgrades to a vehicle comprising (referring to figure 2): a vehicle (figure 2); a network transmission medium installed in said vehicle (transmission bus in figure 2); a first network device (50a...50n) coupled to said network transmission medium, wherein said first network device (50a...50n) is configured to receive and send information, ("Each of the vehicle devices 50a...50n is able to receive information such as data, send information, or is able to both receive and send (column 9, lines 60-63); and a second network device (80, 82, 84, 30) coupled to said network transmission medium, wherein said second network device (80, 82, 84, 30) is configured to receive said software upgrade from a source external (Internet) to said network and wherein said second network device is further configured to convey said software upgrade to said first network device (column 7, lines 23-50).

Spaur does not teach wherein said first network device is configured to accept software upgrades. This claimed feature is well known and is taught by Fawcett in according to figure 3, column 5, lines 48-67.

Fawcett teaches "A computer software developer will typically release an initial version of a software product. Thereafter, as new and improved computers and peripherals are developed, the software product will commonly be upgraded so as to take full advantage of the increased capabilities of the hardware. In addition, a software developer, to remain competitive, will often upgrade the software product to provide new features and functionality.

For this reason, it would have been obvious to those having ordinary skill in the art at the time of the invention was made to configured to convey said software upgrade to said first network device, such as that taught by **Fawcett** to frequently upgrade software products for the first network device.

-Regarding claim 2 and 15, **Spaur** teaches wherein each of said first and second network devices is configured to transmit data to devices having corresponding IP addresses and to receive data having an IP address corresponding to said each of said first and second network devices (each of the vehicle devices 50a-50n has its own IP (Internet protocol address or designation. A user at a remote station 10 that wishes to send or receive information relative to a particular vehicle device 50a-50n, utilizes the IP address or designation of the vehicle device in order to achieve the information transfer relative to the particular vehicle device 50.)" (column 11, lines 30-37).

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-Regarding claims 4, 5, 17 and 18, **Spaur** teaches wherein said first and second network devices are each configured to transmit and receive data according to a predetermined network protocol; wherein said predetermined network protocol is defined by IEEE standard 802, "Preferably, the controller in the vehicle is also associated with an interface for communication with one or more available systems, such as an RS232 connection, an Ethernet connection and/or a PCMCIA unit." (col. 4, line 40-42). (The IEEE 802 family of protocol, including IEEE 802.3 ETHERNET also known as Carrier Sense Multiple Access/Collision Detect CSMA/CD).

-Regarding claims 6, 7, 19 and 20, **Spaur** teaches wherein said second network device comprises a wireless communication device; wherein said wireless communications device comprises a CDPD modem (element 82 of figure 2).

-Regarding claims 9, and 10, **Spaur** further teaches wherein delivering said upgrade data from said first network device via said transmission medium to said second network device comprises: forming a packet containing said upgrade data; addressing said packet to an IP address corresponding to said second network device (50a-50n); and conveying said packet to said transmission medium. (see figure 2 and 3).

-Regarding claim 11, **Spaur** teaches wherein said first network device comprises a wireless communication device and wherein the method further comprises transmitting said upgrade data from an external wireless device (10a...10n of figure 1) to said first network device (18 of fig. 1).

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-Regarding claim 12, **Spaur** further teaches wherein said first network device comprises a wireless Ethernet device, "the controller in the vehicle is also associated with an interface for communication with one or more available system, such as an RS232 connection, an Ethernet connection and/or a PCMCIA unit." (Col. 4, lines 38-40).

### ***Allowable Subject Matter***

3. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is an examiner's statement of reasons for allowance: the prior art made of record does not teach the steps of retrieving information from said vehicle regarding said second network device; determining whether said second network device requires said upgrade data; and transmitting said upgrade data to said first network device in response to determining that said second network device requires said upgrade data.

### ***Conclusion***

5. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

fax to:

(703) 308-6743, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II,  
2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist)

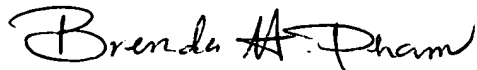
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (703) 308-0148. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (703) 305-4366.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

July 24, 2003  
Brenda Pham

A handwritten signature in black ink that reads "Brenda A. Pham". The signature is written in a cursive style with a large, stylized "B" and a clear "A" and "Pham".